

# STATE OF NEW YORK

8809

## IN SENATE

May 21, 2018

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to enacting the safer consumption services act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public health law is amended by adding a new article  
2 33-B to read as follows:

### ARTICLE 33-B

#### SAFER CONSUMPTION SERVICES ACT

5 Section 3398. Short title.

6 3398-a. Definitions.

7 3398-b. Program approval.

8 3398-c. Designation.

9 3398-d. Reporting.

10 3398-e. Immunity provided.

11 3398-f. Limitations on immunity.

12 § 3398. Short title. This act shall be known and may be cited as the  
13 "safer consumption services act".

14 § 3398-a. Definitions. As used in this article:

15 1. "Program" means a safer consumption services program established  
16 pursuant to this article.

17 2. "Entity" means any community based organization that provides  
18 educational, health, harm reduction, housing, or social services and any  
19 hospital, medical clinic or office, health center, nursing care facili-  
20 ty, mental health facility, or other similar entity that provides  
21 medical care.

22 3. "Participant" means an individual who seeks to utilize, utilizes,  
23 or has used a program established pursuant to this article.

24 § 3398-b. Program approval. 1. Notwithstanding any other statute, law  
25 or rule to the contrary, the department or a local health district may  
26 approve an entity to operate a program in one or more jurisdictions upon  
27 satisfaction of the requirements set forth in subdivision two of this  
28 section. The department and local health jurisdictions shall establish

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 standards for program approval and training and may promulgate such  
2 rules and regulations as are necessary to implement this section.

3 (a) The department or a local health district shall approve or deny an  
4 application under this section within forty-five days of the day of  
5 receipt of the application and provide a written explanation of such  
6 determination.

7 (b) An entity may make an application under this section at any time,  
8 regardless of previous applications.

9 2. The department or local health district may approve an entity to  
10 operate a program pursuant to this article, upon submission of an appli-  
11 cation that demonstrates the entity will, at a minimum:

12 (a) provide a hygienic space where participants may consume their  
13 preobtained drugs that is separate from the space in which the provider  
14 performs other business, if any;

15 (b) provide adequate staffing by healthcare professionals or other  
16 trained staff;

17 (c) provide sterile injection supplies, collect used hypodermic  
18 needles and syringes, and provide secure hypodermic needle and syringe  
19 disposal services;

20 (d) provide education on safe consumption practices, proper disposal  
21 of hypodermic needles and syringes, and overdose prevention, including  
22 written information in, at a minimum, the four most commonly spoken  
23 languages in the state as determined by the department or local health  
24 district;

25 (e) administer first aid, if needed, and monitor participants for  
26 potential overdose;

27 (f) provide referrals to addiction treatment, medical, social welfare,  
28 and employment and training services;

29 (g) educate participants on the risks of contracting HIV and viral  
30 hepatitis and provide sexual health resources and supplies, including,  
31 but not limited to, male and female condoms;

32 (h) provide access to naloxone or referrals to obtain naloxone for  
33 participants;

34 (i) provide reasonable and adequate security of the program site and  
35 equipment;

36 (j) ensure confidentiality of program participants by using an anony-  
37 mous unique identifier;

38 (k) train staff members to deliver services offered by the program or  
39 attend trainings provided by the department or local health jurisdiction  
40 if required; and

41 (l) establish operating procedures for the program as well as eligi-  
42 bility criteria for program participants if not predetermined by the  
43 department or local health district.

44 § 3398-c. Designation. A department approved program shall also be  
45 designated as an authorized syringe exchange program in accordance with  
46 the regulations of the department as set forth in 10 NYCRR 80.135 and as  
47 a registered provider of an opioid overdose prevention program in  
48 accordance with the regulations of the department as set forth in 10  
49 NYCRR 80.138. A safer consumption program approved by a local health  
50 district shall apply to be an authorized syringe exchange program and  
51 registered provider of an opioid overdose prevention program.

52 § 3398-d. Reporting. An entity operating a safer consumption program  
53 under this section shall provide an annual report to the department or  
54 local health district that approved it for operation at a date set by  
55 the department or local health district that shall include:

56 1. the number of program participants;

1 2. aggregate information regarding the characteristics of program  
2 participants;

3 3. the number of hypodermic needles and syringes distributed for use  
4 on-site;

5 4. the number of overdoses experienced and the number of overdoses  
6 reversed on-site; and

7 5. the number of individuals directly and formally referred to other  
8 services and the type of service.

9 § 3398-e. Immunity provided. Notwithstanding any other statute, law or  
10 rule to the contrary, the following persons shall not be arrested,  
11 charged, or prosecuted for any criminal offense or be subject to any  
12 civil or administrative penalty, including seizure or forfeiture of  
13 assets or real property or disciplinary action by a professional licens-  
14 ing board, or be denied any right or privilege, solely for participation  
15 or involvement in a safer consumption program approved by the department  
16 or local health districts pursuant to this article:

17 1. a participant;

18 2. a staff member or administrator of a program, including a health-  
19 care professional, manager, employee, or volunteer; or

20 3. a property owner who owns real property at which a program is  
21 located and operates.

22 § 3398-f. Limitations on immunity. Notwithstanding the provisions of  
23 section thirty-three hundred ninety-eight-e of this article, a property  
24 owner, staff member, manager, employee, volunteer, or individual utiliz-  
25 ing a safer consumption services program is not immune from criminal  
26 prosecution for any activities not permitted or approved pursuant to  
27 this article.

28 § 2. This act shall take effect immediately.